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HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B. : HON'BLE JUSTICE SHRI SATISH K. AGNIHOTRI

WRIT PETITION No. 533 of 2004

PETITIONER : Maluram Singhania, Aged about 70 years S/o Shri Prabhulal Singhania R/o. Khamariya, P.S. Khamariya, Tahsil Saja, District- Durg (Chhattisgarh)

VERSUS

RESPONDENTS : 1. Nagar Panchayat Khamariya Through: CMO, Shri N.S. Bhatti Aged about 45 years, Nagar Panchayat, Khamariya, R/o Khamariya, Tahsil Saja, District Durg (C.G.)

2. President, Nagar Panchayat Shri Anand Singhania, Nagar Panchayat, Khamariya, Tahsil Saja, Distt. Durg (C.G.)

3. State of Chhattisgarh Throug- Collector, Durg. District – Durg (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

Present: Shri Manoj Paranjpe, Advocate for the petitioner.
Shri J.K.Gupta, Advocate for the respondent no. 1 & 2.
Miss Deepali Pandey, Panel Lawyer for the State.

ORDER

(Passed on 20th day of April, 2007)

1. This petition is filed challenging the legality and validity of the order dated 6.1.2004 (Annexure P/7) whereunder the application of the petitioner filed under Order 17 Rule 1 of the Code of Civil Procedure, was rejected.

2. The facts, in nutshell, are that the petitioner sought permission seeking for examination of Revenue Inspector who had submitted

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the spot inspection report. The permission was granted by the Court below but the petitioner could not produce the said witness on account of his transfer, within the prescribed time.

3. The present application was moved for permitting the petitioner to produce the said Revenue Inspector for examination. The Court below, vide order dated 6.1.2004, rejected the application on the ground that the petitioner could not produce the witness earlier despite opportunity granted to him.

4. Be that as it may. It appears that the ground raised by the petitioner is justified as the said witness was a government servant and was away on transfer. In the interest of justice, it is necessary to grant one more opportunity to examine the said witness within the prescribed time.

5. In view of the above, this petition is allowed to the above extent. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit